

§ 1.141-15

26 CFR Ch. I (4-1-09 Edition)

rates on E's bonds. The result also would be the same if the series A bonds and the series B bonds had substantially equivalent weighted average maturities and E and M had entered into a customary contract providing for payments based on a ratable share of total debt service. E would not be treated by the Commissioner in any of these cases as entering into the contract with a principal purpose of transferring the benefits of tax-exempt financing to M in a manner inconsistent with the purposes of section 141.

[T.D. 8712, 62 FR 2301, Jan. 16, 1997]

§ 1.141-15 Effective dates.

(a) *Scope.* The effective dates of this section apply for purposes of §§ 1.141-1 through 1.141-6(a), 1.141-7 through 1.141-14, 1.145-1 through 1.145-2, 1.150-1(a)(3) and the definition of bond documents contained in § 1.150-1(b).

(b) *Effective dates—(1) In general.* Except as otherwise provided in this section, §§ 1.141-0 through 1.141-6(a), 1.141-9 through 1.141-12, 1.141-14, 1.145-1 through 1.145-2(c), and the definition of bond documents contained in § 1.150-1(b) (the 1997 regulations) apply to bonds issued on or after May 16, 1997, that are subject to section 1301 of the Tax Reform Act of 1986 (100 Stat. 2602).

(2) *Certain short-term arrangements.* The provisions of § 1.141-3 that refer to arrangements for 200 days, 100 days, or 50 days apply to any bond sold on or after November 20, 2001 and may be applied to any bond outstanding on November 20, 2001 to which § 1.141-3 applies.

(3) *Certain prepayments.* Except as provided in paragraph (c) of this section, paragraphs (c)(2)(ii), (c)(2)(iii) and (c)(2)(iv) of § 1.141-5 apply to bonds sold on or after October 3, 2003. Issuers may apply paragraphs (c)(2)(ii), (c)(2)(iii) and (c)(2)(iv) of § 1.141-5, in whole but not in part, to bonds sold before October 3, 2003 that are subject to § 1.141-5.

(c) *Refunding bonds.* Except as otherwise provided in this section, the 1997 regulations (defined in paragraph (b)(1) of this section) do not apply to any bonds issued on or after May 16, 1997, to refund a bond to which those regulations do not apply unless—

(1) The refunding bonds are subject to section 1301 of the Tax Reform Act of 1986 (100 Stat. 2602); and

(2)(i) The weighted average maturity of the refunding bonds is longer than—

(A) The weighted average maturity of the refunded bonds; or

(B) In the case of a short-term obligation that the issuer reasonably expects to refund with a long-term financing (such as a bond anticipation note), 120 percent of the weighted average reasonably expected economic life of the facilities financed; or

(ii) A principal purpose for the issuance of the refunding bonds is to make one or more new conduit loans.

(d) *Permissive application of regulations.* Except as provided in paragraph (e) of this section, the 1997 regulations (defined in paragraph (b)(1) of this section) may be applied in whole, but not in part, to actions taken before February 23, 1998, with respect to—

(1) Bonds that are outstanding on May 16, 1997, and subject to section 141; or

(2) Refunding bonds issued on or after May 16, 1997, that are subject to 141.

(e) *Permissive application of certain sections.* The following sections may each be applied to any bonds—

(1) Section 1.141-3(b)(4);

(2) Section 1.141-3(b)(6); and

(3) Section 1.141-12.

(f) *Effective dates for certain regulations relating to output facilities—(1) General rule.* Except as otherwise provided in this section, §§ 1.141-7 and 1.141-8 apply to bonds sold on or after November 22, 2002, that are subject to section 1301 of the Tax Reform Act of 1986 (100 Stat. 2602).

(2) *Transition rule for requirements contracts.* For bonds otherwise subject to §§ 1.141-7 and 1.141-8, § 1.141-7(c)(3) applies to output contracts entered into on or after September 19, 2002. An output contract is treated as entered into on or after that date if it is amended on or after that date, but only if the amendment results in a change in the parties to the contract or increases the amount of requirements covered by the contract by reason of an extension of the contract term or a change in the method for determining such requirements. For purposes of this paragraph (f)(2)—

(i) The extension of the term of a contract causes the contract to be treated as entered into on the first day of the additional term;

(ii) The exercise by a party of a legally enforceable right that was provided under a contract before September 19, 2002, on terms that were fixed and determinable before such date, is not treated as an amendment of the contract. For example, the exercise by a purchaser after September 19, 2002 of a renewal option that was provided under a contract before that date, on terms identical to the original contract, is not treated as an amendment of the contract; and

(iii) An amendment that increases the amount of requirements covered by the contract by reason of a change in the method for determining such requirements is treated as a separate contract that is entered into as of the effective date of the amendment, but only with respect to the increased output to be provided under the contract.

(g) *Refunding bonds for output facilities.* Except as otherwise provided in paragraph (h) or (i) of this section, §§ 1.141-7 and 1.141-8 do not apply to any bonds sold on or after November 22, 2002, to refund a bond to which §§ 1.141-7 and 1.141-8 do not apply unless—

(1) The refunding bonds are subject to section 1301 of the Tax Reform Act of 1986 (100 Stat. 2602); and

(2)(i) The weighted average maturity of the refunding bonds is longer than—

(A) The weighted average maturity of the refunded bonds; or

(B) In the case of a short-term obligation that the issuer reasonably expects to refund with a long-term financing (such as a bond anticipation note), 120 percent of the weighted average reasonably expected economic life of the facilities financed; or

(ii) A principal purpose for the issuance of the refunding bonds is to make one or more new conduit loans.

(h) *Permissive retroactive application.* Except as provided in paragraphs (d), (e) or (i) of this section, §§ 1.141-1 through 1.141-6(a), 1.141-7 through 1.141-14, 1.145-1 through 1.145-2, 1.149(d)-1(g), 1.150-1(a)(3), the definition of bond documents contained in § 1.150-1(b) and § 1.150-1(c)(3)(ii) may be applied by issuers in whole, but not in part, to—

(1) Outstanding bonds that are sold before February 17, 2006, and subject to section 141; or

(2) Refunding bonds that are sold on or after February 17, 2006, and subject to section 141.

(i) *Permissive application of certain regulations relating to output facilities.* Issuers may apply §§ 1.141-7(f)(3) and 1.141-7(g) to any bonds.

(j) *Effective dates for certain regulations relating to refundings.* Except as otherwise provided in this section, §§ 1.141-13, 1.145-2(d), 1.149(d)-1(g), 1.150-1(a)(3) and 1.150-1(c)(3)(ii) apply to bonds that are sold on or after February 17, 2006, and that are subject to the 1997 regulations (defined in paragraph (b)(1) of this section).

(k) *Effective/applicability dates for certain regulations relating to generally applicable taxes and payments in lieu of tax—*(1) *In general.* Except as otherwise provided in paragraphs (k)(2) and (k)(3) of this section, revised §§ 1.141-4(e)(2), 1.141-4(e)(3) and 1.141-4(e)(5) apply to bonds sold on or after October 24, 2008 that are otherwise subject to the 1997 Regulations (defined in paragraph (b)(1) of this section).

(2) *Transitional rule for certain refundings.* Paragraph (k)(1) does not apply to bonds that are issued to refund bonds if—

(i) Either—

(A) The refunded bonds (or the original bonds in a series of refundings) were sold before October 24, 2008, or

(B) The refunded bonds (or the original bonds in a series of refundings) satisfied the transitional rule for projects substantially in progress under paragraph (k)(3) of this section; and

(ii) The weighted average maturity of the refunding bonds does not exceed the remaining weighted average maturity of the refunded bonds.

(3) *Transitional rule for certain projects substantially in progress.* Paragraph (k)(1) of this section does not apply to bonds issued for projects for which all of the following requirements are met:

(i) A governmental person (as defined in § 1.141-1) took official action evidencing its preliminary approval of the project before October 19, 2006, and the plan of finance for the project in place at that time contemplated financing the project with tax-exempt bonds to be paid or secured by PILOTs.

(ii) Before October 19, 2006, significant expenditures were paid or incurred with respect to the project or a contract was entered into to pay or incur significant expenditures with respect to the project.

(iii) The bonds for the project (excluding refunding bonds) are issued on or before December 31, 2009.

[T.D. 8757, 63 FR 3265, Jan. 22, 1998, as amended by T.D. 8941, 66 FR 4670, Jan. 18, 2001; T.D. 8967, 66 FR 58062, Nov. 20, 2001; T.D. 9016, 67 FR 59765, Sept. 23, 2002; T.D. 9085, 68 FR 45775, Aug. 4, 2003; T.D. 9234, 70 FR 75035, Dec. 19, 2005; 71 FR 1971, Jan. 12, 2006; T.D. 9429, 73 FR 63375, Oct. 24, 2008]

§ 1.141-16 Effective dates for qualified private activity bond provisions.

(a) *Scope.* The effective dates of this section apply for purposes of §§1.142-0 through 1.142-2, 1.144-0 through 1.144-2, 1.147-0 through 1.147-2, and 1.150-4.

(b) *Effective dates.* Except as otherwise provided in this section, the regulations designated in paragraph (a) of this section apply to bonds issued on or after May 16, 1997 (the effective date).

(c) *Permissive application.* The regulations designated in paragraph (a) of this section may be applied by issuers in whole, but not in part, to bonds outstanding on the effective date. For this purpose, issuers may apply §1.142-2 without regard to paragraph (c)(3) thereof to failures to properly use proceeds that occur on or after April 21, 2003.

(d) *Certain remedial actions—(1) General rule.* The provisions of §1.142-2(e) apply to failures to properly use proceeds that occur on or after August 13, 2004 and may be applied by issuers to failures to properly use proceeds that occur on or after May 14, 2004, provided that the bonds are subject to §1.142-2.

(2) *Special rule for allocations of nonqualified bonds.* For purposes of §1.142-2(e)(2), in addition to the allocation methods permitted in §1.142-2(e)(2), an issuer may treat bonds with the longest maturities (determined on a bond-by-bond basis) as the nonqualified bonds, but only with respect to failures to properly use proceeds that occur on or after May 14, 2004, with respect to bonds sold before August 13, 2004.

[T.D. 8712, 62 FR 2302, Jan. 16, 1997, as amended by T.D. 9150, 69 FR 50066, Aug. 13, 2004]

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§ 1.142-3 Refunding issues. [Reserved]

[T.D. 8712, 62 FR 2302, Jan. 16, 1997, as amended by T.D. 9150, 69 FR 50066, Aug. 13, 2004]

§ 1.142-1 Exempt facility bonds.

(a) *Overview.* Interest on a private activity bond is not excludable from gross income under section 103(a) unless the bond is a qualified bond. Under section 141(e)(1)(A), an exempt facility bond issued under section 142 may be a qualified bond.

Under section 142(a), an exempt facility bond is any bond issued as a part of an issue using 95 percent or more of the proceeds for certain exempt facilities.

(b) *Scope.* Sections 1.142-0 through 1.142-3 apply for purposes of the rules for exempt facility bonds under section 142, except that, with respect to net proceeds that have been spent, §1.142-2 does not apply to bonds issued under section 142(d) (relating to bonds issued to provide qualified residential rental projects) and section 142(f) (2) and (4) (relating to bonds issued to provide local furnishing of electric energy or gas).

(c) *Effective dates.* For effective dates of §§1.142-0 through 1.142-2, see §1.141-16.

[T.D. 8712, 62 FR 2302, Jan. 16, 1997]